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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA Commercial Mortgage Company,

USA Capital Realty Advisors, LLC,¹

USA Capital Diversified Trust Deed Fund,
LLC,

USA Capital First Trust Deed Fund, LLC,²

USA Securities, LLC,³

Debtors.

Affects:

☐ All Debtors

☒ USA Commercial Mortgage Company

☐ USA Capital Realty Advisors, LLC

☐ USA Capital Diversified Trust Deed Fund, LLC

☐ USA Capital First Trust Deed Fund, LLC

☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**DECLARATION OF EDWARD M.
BURR IN SUPPORT OF MOTION
TO FURTHER EXTEND DEADLINE
TO FILE OBJECTION TO
ALLOWANCE OF CLAIMS; AND
CERTIFICATE OF SERVICE**

Date: September 30, 2010

Time: 10:30 a.m.

Estimated Time of Hearing: 10 minutes

I, Edward M. Burr, hereby declare under penalty of perjury that:

I am a principal with Sierra Consulting Group, LLC ("Sierra").

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 26, 2007.

1 I submit this declaration on behalf of the Motion to Further Extend Deadline to File
2 Objection to Allowance of Claims (the "Motion") [DE 8151] filed by the USACM
3 Liquidating Trust (the "USACM Trust"), as successor to USA Commercial Mortgage
4 Company ("USACM").

5 Sierra previously served as financial adviser to the Official Committee of
6 Unsecured Creditors of USA Commercial Mortgage Company ("Committee").

7 I assisted the Committee in analyzing facts concerning these jointly administered
8 bankruptcy cases, including scheduled liabilities and proofs of claim. The Committee
9 ceased to exist on March 12, 2007, the Effective Date of the Debtors' Third Amended
10 Joint Chapter 11 Plan of Reorganization ("Plan"), and I am now assisting the USACM
11 Liquidating Trust ("USACM Trust") created under the Plan.

12 I make the following declaration based upon my personal knowledge, and upon the
13 records of the Debtors and the USACM Trust described in this declaration.

14 I understand that under the Plan as modified by the Confirmation Order, the
15 deadline for interested parties to object to Allowance of Claims and Equity Interests was
16 90 days after the Effective Date, or June 10, 2007. That deadline was further extended to
17 October 9, 2007 by a June 29, 2007 order [DE 4097] after a hearing held on June 22, 2007.
18 The deadline was further extended to October 15, 2007 by a bridge order that was
19 approved at a hearing held on August 23, 2007 [DE 4625]. On October 11, 2007, the
20 Court entered an order [DE 4971] extending the deadline to February 12, 2008. On
21 January 22, 2008, the Court entered an order [DE 5709] extending the deadline to June 12,
22 2008. On May 13, 2008, the Court entered an order [DE 6347] extending the deadline to
23 October 10, 2008. On December 2, 2008, the Court entered an Order [DE 6636]
24 extending the deadline to February 9, 2009. On February 19, 2009, this Court entered an
25 order [DE 6843] extending the deadline to June 9, 2009. On May 7, 2009 entered an order
26 [DE 7105] extending the deadline to October 7, 2009. On October 27, 2009 entered an

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order [DE 7680] extending the deadline to February 4, 2010. On February 1, 2010 entered an order [DE 7945] extending the deadline to June 4, 2010. On May 21, 2010 entered an order [DE 8070] extending the deadline to October 8, 2010

To date there have been filed:

- seven administrative claims totaling \$2,016,499 — there are no unresolved administrative claims;
- 100 priority claims totaling \$6,975,181 — there is one unresolved priority claim for \$32,844;
- 1669 secured claims filed totaling \$291,093,538 — all secured claims are resolved or have been converted to unsecured claims;
- 1,241 unsecured claims totaling \$635,466,221 — as of August 23, 2010, there were \$196,416,019 unresolved unsecured claims remaining.
- 69 unknown claims totaling \$322,617 of which \$142,139 remains unresolved — Two objections to the status of an administrative claim for \$62,496 that have been sustained, resulting in the claims being reclassified as unsecured. There are no unresolved administrative claims.
- Objections to 74 priority claims that have been sustained and reclassified as unsecured in aggregate of \$4,458,040. There is one unresolved alleged priority claim remaining for \$32,844. The Trust will be requesting that the Court hold a status conference on that matter on.
- Objections to 1660 secured claims that have been sustained and reclassified as unsecured (subject to potential further objection) in the aggregate amount of \$290,201,464. There are no unresolved secured claims that assert liens on assets owned by the Trust.⁴

⁴ Unfortunately, numerous direct loans secured by borrower property have not been resolved.

- 1 • As of August 23, 2010, \$178,846,601 in unsecured claims have been
- 2 allowed and \$559,006,622 have been disallowed, leaving a total of
- 3 \$196,416,019 in unresolved unsecured claims.
- 4 • Objections to 77 “wrong debtor” claims, in the aggregate amount of
- 5 \$12,544,484, were sustained. The Trust believes that it has made all of the
- 6 available “wrong debtor” objections.
- 7 • Objections to 158 claims for lack of documentation in the amount of
- 8 \$23,447,974 have been sustained.
- 9 • Objections to 40 claims based on miscellaneous grounds in the amount of
- 10 \$87,882,585. Thirty six of these objections have been sustained totaling
- 11 \$74,223,923; 4 claims were partially deemed allowed in the amount of
- 12 \$13,658,662.
- 13 • Direct Lenders’ claims in the amount of \$133,094,051, principally on loans
- 14 paid in full by the borrowers. The Court has sustained these objections or
- 15 the claimants have agreed that they are not making a claim based upon the
- 16 paid loan in question. Objections to claims totaling \$1,315,107 based on the
- 17 Huntsville and Charlevoix loans will be heard on September 23, 2010. A
- 18 stipulation has been executed and an order signed which provides for the
- 19 disallowance of the Spectrum and Weddell proofs of claim in the amount of
- 20 \$125,000,000.
- 21 • Thirty-two objections to claims based on the Palm Terrace lawsuit totaling
- 22 \$64,000,000; of which 31 claims have been disallowed in their entirety and
- 23 one claim was deemed partially allowed in the amount of \$50,000 with the
- 24 remaining portion of the claim disallowed. Thus, \$63,950,000 of the Palm
- 25 Terrace Claims have been disallowed. Objections to Approximately 250
- 26 claims where the direct lender claimant made both a secured claim and an

unsecured claim based upon the same investment. These claims were double-counted and the Trust obtained an order disallowing one-half of each claim, which resolved approximately \$70,000,000 in direct lender claims.

In addition to the claims objections listed above:

- 260 claims totaling \$35,031,487 have been amended or duplicated by another proof of claim.
- 83 claims totaling \$26,080,830 withdrawn by stipulation.
- 8 claims totaling \$1,245,885 were reclassified as a class A-7 subordinated claims.

The Trust prosecuted objections to claims, including the Loans known as 3685 San Fernando Road Partners; 5252 Orange; 60th St. Venture, LLC; Ashby Financial \$7,200,000; BarUSA/\$15,300,000 (Barusa, LLC); Bay Pompano Beach, LLC; Beastar, LLC; Boise/Gowen; Clear Creek Plantation; Copper Sage Commerce Center, LLC; Corral, LLC; Cottonwood Hills, LLC; Del Valle Isleton; Elizabeth May Real Estate, LLC; Fiesta 6; Fiesta Mcnaughton; Fiesta/Beaumont \$2.4m; Gateway Stone (Gateway Stone Association); Glendale Tower Partners, L.P.; Golden State; Goss Road Savannah Homes, LLC; Gramercy Court Condos; Hasley Canyon; HFA- North Yonkers; HFA Riviera; HFA Riviera 2nd; I-40 Gateway West, LLC; I-40 Gateway West, LLC 2nd; J Jireh Corporation; La Hacienda Estate, LLC; LCG Gilroy, LLC; Marquis Hotel; Meadow Creek Partners, LLC; Midvale Marketplace, LLC; Opaque/Mt. Edge \$7,350,000; Preserve at Galleria, LLC; Rio Rancho Executive Plaza, LLC; Roam Development Group L.P.; Shamrock Tower, LP; Slade Development, Inc.; Urban Housing Alliance - 435 Loft; and Wasco Investments LLC.

The Trust has other adversary proceedings pending that constitute claims objections.

1 Further, as the Trust has received information from claimants, it has entered into
2 stipulations for the allowance and disallowance of priority and unsecured claims.
3 Conversely, some claimants have stipulated to either withdraw their claims or have them
4 reclassified as unsecured claims upon discussion with the USACM Trust's counsel.

5 Not all of the claims objections can be resolved through motions. The Court has
6 ordered that the Trust's objection to claim 1366 of Los Valles Land & Golf, LLC be
7 consolidated with a related adversary proceeding filed by the Trust against Los Valles and
8 its guarantor, Dan S. Palmer, Jr.

9 USACM Trust has 103 direct lender loans on record for which investors have filed
10 a proof of claim asserting money owed. To date USACM Trust has objected to proofs of
11 claims based on 44 of these loans for having been repaid in full. Objections to claims
12 based on the Huntsville and Charlevoix Homes, LLC loans have been filed and will be
13 heard on September 23, 2010. There will be an additional 61 direct lender loans
14 outstanding after these loans are resolved, the majority of these loans are being serviced by
15 Compass Financial. USACM Trust has been unable to obtain the status of these
16 outstanding loans from Compass Financial.

17 I make this declaration under penalty of perjury of the laws of the United States of
18 America on August 24, 2010.

19
20 By /s/ Edward M. Burr
Edward M. Burr

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Copy of the foregoing served on August 24, 2010, via e-mail or first class postage prepaid U.S. Mail to all parties listed on the Post Effective Date Service List on file with this Court:

s/Renee L. Creswell

Renee L. Creswell

Lewis and Roca LLP